

Art Unit: 1634

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Irina Vainberg on 2/19/2010.

The application has been amended as follows:

4. A method of surveillance for the presence of a biological agent, which method comprises: assaying a sample derived from street debris materials collected from a sample domain for the presence of a biological agent comprising the steps of:
  - (a) treating the sample to reduce the concentration of bacteria that are preferentially bioencapsulated by *Tetrahymena pyriformis* relative to the bioencapsulation of *Bacillus anthracis*,
  - (b) introducing *Tetrahymena pyriformis* to the sample, and
  - (c) assaying for *Bacillus anthracis*;wherein the sample domain is a route undertaken by a street sweeper machine through a city street and comprises at least one collection point from which the materials are collected from a city street in a pre-existing operation, otherwise unrelated to surveillance.
20. A method of surveillance for the presence of a biological agent, which method comprises:
  - (a) treating a sample derived from street debris materials collected from a sample domain to reduce the concentration of bacteria that are preferentially bioencapsulated by *Tetrahymena pyriformis* relative to the bioencapsulation of *Bacillus thuringiensis*, and
  - (b) assaying the sample domain for the presence of a biological agent;wherein the sample domain is a route undertaken by a street sweeper machine through a city street and comprises at least one collection point from which the materials are collected from a city street in a pre-existing operation, otherwise unrelated to surveillance, wherein the sample is assayed for *Bacillus thuringiensis*.
44. A method of detecting the presence of a biological agent which comprises:
  - (a) obtaining at least one sample from a collection of street debris that has been exposed to the environment and is collected from a street sweeper machine that follows a pre-defined, traceable route unrelated to surveillance and continuously collects the street debris from an open environment along the pre-defined route;

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- (b) treating the sample to reduce the concentration of bacteria that are preferentially bioencapsulated by *Tetrahymena pyriformis* relative to the bioencapsulation of a *Bacillus* spore;
- (c) introducing *Tetrahymena pyriformis* to the sample and assaying the sample for the presence of the *Bacillus* spore;
- (d) determining a result based on the assay; and
- (e) report the result.

The following is an examiner's statement of reasons for allowance:

2. Claims 4, 20, and 44-46 are free of the prior art of record because the prior art of record does not teach or reasonably suggest treating the sample to reduce the concentration of bacteria that are preferentially bioencapsulated by *Tetrahymena pyriformis* relative to the bioencapsulation of *Bacillus anthracis* or *Bacillus thuringiensis*. The specification discloses optimizing the efficiency of bioencapsulation by treating the sample with antibacterial agent, changing the condition of the sample to provide a favorable environment for the carrier to bioencapsulate the targeted agent by selected carriers based on a great affinity for the target microorganism (See pg 15, lines 3-15) and teaches an example of filtration-heating process to exclude material that interferes with bioencapsulation of *Bacillus anthracis* (see pg. 16, lines 5-20). The prior art of record does not teach or suggest treating a sample to reduce the concentration of bacteria that are bioencapsulated relative to bioencapsulation of the targeted *Bacillus* spore.
3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarae Bausch whose telephone number is (571) 272-2912. The examiner can normally be reached on M-F 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Nguyen can be reached on (571) 272-0731. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

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/Sarae Bausch/  
Primary Examiner, Art Unit 1634